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INTEL CORPORATION

11 **UNITED STATES DISTRICT COURT**
12 **NORTHERN DISTRICT OF CALIFORNIA**
13 **SAN FRANCISCO BRANCH**

15 DUALCOR TECHNOLOGIES, INC.,

16 Plaintiff,

17 vs.

18 INTEL CORPORATION,

19 Defendant.

) Case No. CV07-04425-JSW
)
)
) **ANSWER OF DEFENDANT INTEL**
) **CORPORATION**
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21 Defendant Intel Corporation ("Intel") hereby answers the complaint of Plaintiff Dualcor
22 Technologies, Inc. ("Plaintiff") as follows:

23 **INTRODUCTION**

24 1. Intel admits that Plaintiff's complaint seeks relief from this Court and that Intel has used
25 the phrase "dual core" to describe its products. Intel denies the remaining allegations set forth in
26 Paragraph 1.
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28

2. Intel admits that Plaintiff's complaint seeks money damages and injunctive relief. Intel denies the remaining allegations set forth in Paragraph 2.

THE PARTIES

3. Intel lacks sufficient information on which to form a belief as to the truth of the allegations in Paragraph 3, and on that basis denies them.

4. Intel admits the allegations contained in Paragraph 4.

JURISDICTION AND VENUE

5. Intel admits the allegations contained in Paragraph 5.

6. Intel admits the allegations contained in Paragraph 6.

CLAIM FOR TRADEMARK AND TRADE NAME INFRINGEMENT

7. To the extent a response to Paragraph 7 is necessary, Intel incorporates its responses to Paragraphs 1 through 6 above.

8. Intel lacks sufficient information on which to form a belief as to the truth of the allegations in Paragraph 8, and on that basis denies them.

9. Intel lacks sufficient information on which to form a belief as to the truth of the allegations in Paragraph 9, and on that basis denies them.

10. Intel admits that according to Exhibit 1 of the Complaint, Plaintiff filed a trademark application for the mark DUALCOR with the United States Patent & Trademark Office on May 14, 2004.

11. Intel admits that according to Exhibit 1 of the Complaint, Plaintiff obtained a registration for DUALCOR, Reg. No. 3,121,648, on July 25, 2006. Intel admits that a copy of what appears to be a certificate of registration for Reg. No. 3,121,648 is attached as Exhibit 1 to the Complaint. Intel lacks sufficient information on which to form a belief as to the truth of the remaining allegations in Paragraph 11 of the Complaint, and on that basis denies them.

12. Intel lacks sufficient information on which to form a belief as to the truth of the allegations in Paragraph 12, and on that basis denies them.

1 13. Intel lacks sufficient information on which to form a belief as to the truth of the
2 allegations in Paragraph 13, and on that basis denies them.

3 14. Intel denies that it misappropriated Plaintiff's name or mark, and otherwise lacks
4 sufficient information on which to form a belief as to the truth of the remaining allegations in
5 Paragraph 14, and on that basis denies them.

6 15. Intel lacks sufficient information on which to form a belief as to the truth of the
7 allegations in Paragraph 15, and on that basis denies them.

8 16. Intel admits that, following the debut of its INTEL CORE product line, Intel released a
9 line of products under the mark INTEL CORE 2 DUO. Intel denies that this release occurred on or
10 about July 26, 2006, as alleged in the Complaint. Intel admits that it used the phrase "Dual-Core. Do
11 More" as part of its marketing. Intel otherwise denies the remaining allegations in Paragraph 16.

12 17. Intel admits that it that it has used the phrase "Dual-Core. Do More" as part of its
13 product marketing. Intel denies the remaining allegations in Paragraph 17.

14 18. Intel denies the allegations contained in Paragraph 18.

15 19. Intel denies the allegations contained in Paragraph 19.

16 20. Intel denies the allegations contained in Paragraph 20.

17 21. Intel denies the allegations contained in Paragraph 21.

18
19 **GENERAL DENIAL**

20 22. Intel further denies any of the allegations in Plaintiff's Complaint not specifically
21 admitted in the responses set forth above in Paragraphs 1-21.

22 **AFFIRMATIVE DEFENSES**

23 For its affirmative defenses, Intel alleges on information and belief that:

24 **FIRST AFFIRMATIVE DEFENSE**

25 Plaintiff's Complaint, and each of its purported claims, in whole or in part, are barred by
26 acquiescence, laches, waiver, and estoppel.

SECOND AFFIRMATIVE DEFENSE

Plaintiff's Complaint, and each of its purported claims, in whole or in part, fail to state a claim upon which relief can be granted.

THIRD AFFIRMATIVE DEFENSE

Plaintiff's Complaint, and each of its purported claims, in whole or in part, are barred by Plaintiff's unclean hands.

FOURTH AFFIRMATIVE DEFENSE

Plaintiff's trademark registration for the DUALCOR mark is invalid.

FIFTH AFFIRMATIVE DEFENSE

Intel's use of "Dual-Core" is a fair use under the law.

WHEREFORE, Intel Corporation prays for judgment as follows:

1. That Plaintiff's action be dismissed.
2. That Intel be awarded its costs of suit, including its attorneys' fees.
3. For such other relief as the Court deems proper.

Dated: September 26, 2007

HOWREY LLP

By /s/ Bobby A. Ghajar
Robert N. Phillips
Bobby A. Ghajar

Attorneys for Defendant
INTEL CORPORATION